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7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. **2013-76**

11 **GARY WAYNE PRICE**
12 **P.O. Box 87**
13 **Santa Paula, CA 93061**

A C C U S A T I O N

14 **Registered Nurse License No. 710566**

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
19 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
20 of Consumer Affairs.

21 2. On or about August 16, 2007, the Board of Registered Nursing issued Registered
22 Nurse License Number 710566 to Gary Wayne Price ("Respondent"). The Registered Nurse
23 License was in full force and effect at all times relevant to the charges brought herein and will
24 expire on April 30, 2013, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Registered Nursing ("Board"),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code ("Code") unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

STATUTORY PROVISIONS

5. Section 118, subdivision (b) of the Code provides, in pertinent part:

“(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.”

6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

7. Section 2761 of the Code provides, in pertinent part:

“The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

• • •

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action...”

8. Section 2811, subdivision (b) of the Code provides:

“Each such license not renewed in accordance with this section shall expire but may within a period of eight years thereafter be reinstated upon payment of the biennial renewal fee and penalty fee required by this chapter and upon submission of such proof of the applicant's qualifications as may be required by the board, except that during such eight-year period no examination shall be required as a condition for the reinstatement of any such expired license which has lapsed solely

1 by reason of nonpayment of the renewal fee. After the expiration of such eight-
2 year period the board may require as a condition of reinstatement that the applicant
3 pass such examination as it deems necessary to determine his present fitness to
4 resume the practice of professional nursing.”

5 REGULATORY PROVISIONS

6 9. California Code of Regulations, title 16, section, 1419.3 provides:

7 “In the event a licensee does not renew his/her license as provided
8 in Section 2811 of the code, the license expires. A licensee
9 renewing pursuant to this section shall furnish a full set of
10 fingerprints as required by and set out in section 1419(b) as a
11 condition of renewal.

12 (a) A licensee may renew a license that has not been expired for
13 more than eight years by paying the renewal and penalty fees as
14 specified in Section 1417 and providing evidence of 30 hours of
15 continuing education taken within the prior two-year period.

16 (b) A licensee may renew a license that has been expired for more
17 than eight years by paying the renewal and penalty fees specified in
18 Section 1417 and providing evidence that he or she holds a current
19 valid active and clear registered nurse license in another state, a
20 United States territory, or Canada, or by passing the Board's current
21 examination for licensure.”

22 10. California Code of Regulations, title 16, section 1443, states:

23 “As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the
24 failure to exercise that degree of learning, skill, care and experience ordinarily possessed and
25 exercised by a competent registered nurse as described in Section 1443.5.”

26 11. California Code of Regulations, title 16, section 1443.5 states:

27 “A registered nurse shall be considered to be competent when
28 he/she consistently demonstrates the ability to transfer scientific
knowledge from social, biological and physical sciences in applying
the nursing process, as follows:

(1) Formulates a nursing diagnosis through observation of
the client's physical condition and behavior, and through
interpretation of information obtained from the client and others,
including the health team.

(2) Formulates a care plan, in collaboration with the client,
which ensures that direct and indirect nursing care services provide
for the client's safety, comfort, hygiene, and protection, and for
disease prevention and restorative measures.

1 (3) Performs skills essential to the kind of nursing action to
2 be taken, explains the health treatment to the client and family and
3 teaches the client and family how to care for the client's health
4 needs.

5 (4) Delegates tasks to subordinates based on the legal
6 scopes of practice of the subordinates and on the preparation and
7 capability needed in the tasks to be delegated, and effectively
8 supervises nursing care being given by subordinates.

9 (5) Evaluates the effectiveness of the care plan through
10 observation of the client's physical condition and behavior, signs
11 and symptoms of illness, and reactions to treatment and through
12 communication with the client and health team members, and
13 modifies the plan as needed.

14 (6) Acts as the client's advocate, as circumstances require,
15 by initiating action to improve health care or to change decisions or
16 activities which are against the interests or wishes of the client, and
17 by giving the client the opportunity to make informed decisions
18 about health care before it is provided."

19 COST RECOVERY

20 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
21 administrative law judge to direct a licentiate found to have committed a violation or violations of
22 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
23 enforcement of the case.

24 FACTUAL SUMMARY

25 13. St. John's Medical Center ("SJMC") is a private, not-for-profit healthcare provider
26 located in Oxnard, California.

27 14. On or between March 8, 2010 and March 28, 2011, Respondent was employed as a
28 registered nurse at SJMC.

29 Patient John Doe¹

30 15. On or about March 6, 2011, at the age of seventy-six, patient John Doe was admitted
31 to SJMC for having an altered mental status.

32 16. John Doe has a history of dementia, hypothyroidism, paroxysmal atrial tachycardia
33 (rapid regular heart beats that start and end abruptly), and polysubstance abuse. John Doe was in

34 ¹ To maintain confidentiality, patient is being referred to as John Doe.

1 full code status, meaning if he went into respiratory or cardiac arrest, every possible measure
2 available would be used to resuscitate him. He was also connected to a telemetry cardiac monitor
3 to monitor the activity of his heart.

4 17. On March 8, 2011, at 8:18 a.m., Respondent was assigned as the registered nurse to
5 care for John Doe.

6 18. On or about that same date and time, John Doe was taken off his telemetry cardiac
7 monitor for a scheduled medical test. The test was conducted in the patient's room and was
8 completed at 8:45 a.m..

9 19. Respondent failed to reconnect John Doe to the telemetry cardiac monitor after the
10 medical test was performed.

11 20. On or about March 8, 2011, at 11:15 a.m., John Doe's wife informed Respondent that
12 John Doe was no longer breathing. Respondent initiated cardiac resuscitation efforts but John
13 Doe failed to respond and expired.

14 21. The acceptable standard of care for a patient on continuous telemetry monitoring is
15 for the patient to be reconnected to the monitor as soon as the patient has completed testing.

16 22. Respondent failed to ensure that John Doe's telemetry monitoring unit was
17 reconnected after the medical test was performed.

18 FIRST CAUSE FOR DISCIPLINE

19 (Incompetence)

20 23. Respondent is subject to disciplinary action under section 2761, subdivision (a)(1), as
21 defined by California Code of Regulations, title 16, section 1443 and 1443.5 for incompetence, in
22 that he failed to exercise that degree of learning, skill, care and experience ordinarily possessed
23 and exercised by a competent registered nurse. The conduct is more particularly described in
24 paragraphs 13 through 22, inclusive, above, and herein incorporated by reference.

25 SECOND CAUSE FOR DISCIPLINE

26 (Disciplinary Action by the Alabama Board of Nursing)

27 24. Respondent is subject to disciplinary action under Code section 2761, subdivision
28 (a)(4), on the grounds of unprofessional conduct in that Respondent's registered nurse license was

1 disciplined by the Alabama Board of Nursing ("Alabama Board").

2 25. On or about March 2, 2011, pursuant to the Voluntary Surrender issued by the
3 Alabama Board, in the disciplinary action entitled *In the matter of: Gary Wayne Price License*
4 *No. 1-108564 (LAPSED)*, case number 2009-1378, the Alabama Board accepted the voluntary
5 surrender of Respondent's license to practice nursing. Respondent acknowledged that the
6 surrender has the same effect as a revocation and that the surrender amounted to discipline against
7 his license.

8 **THIRD CAUSE FOR DISCIPLINE**

9 **(Unprofessional Conduct)**

10 26. Respondent is subject to disciplinary action under Code section 2761, subdivision (a),
11 in that Respondent committed acts of unprofessional conduct. The conduct is more particularly
12 described in paragraphs 13 through 22, and 25, inclusive, above, and herein incorporated by
13 reference.

14 **PRAAYER**

15 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
16 and that following the hearing, the Board of Registered Nursing issue a decision:

17 1. Revoking or suspending Registered Nurse License Number 710566, issued to Gary
18 Wayne Price;

19 2. Ordering Gary Wayne Price to pay the Board of Registered Nursing the reasonable
20 costs of the investigation and enforcement of this case, pursuant to Business and Professions
21 Code section 125.3;

22 3. Taking such other and further action as deemed necessary and proper.

23 DATED: 7/24/2012

24 *for* *Stacie Brown*
25 LOUISE R. BAILEY, M.ED., RN
26 Interim Executive Officer
27 Board of Registered Nursing
28 Department of Consumer Affairs
State of California
Complainant

LA2012506724